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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,844	07/18/2003	Gerald Lynn Baker	THOLAM,P207US	4760
20210	7590	05/16/2005	EXAMINER	
DAVIS & BUJOLD, P.L.L.C. FOURTH FLOOR 500 N. COMMERCIAL STREET MANCHESTER, NH 03101-1151			JOHNSON, JERROLD D	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,844

Applicant(s)

BAKER ET AL.

Examiner

Jerrold Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-14,17-20,24 and 27-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6,24 and 27-35 is/are rejected.
- 7) ☒ Claim(s) 1,2,7-14 and 17-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings/Specification

Applicant's changes to the Drawings and the Specification are approved.

Claim Objections

Claim 4, line 10, "one" should be "two".

Claim 1, line 8, "the least" should be "the at least".

Claim 2, "member" should be "members".

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 4-6, 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hourston GB 2161452 in view of Rosenfeldt US 6,299,011.

Re claims 4 and 27, Hourston discloses a bulk bag with integral pallets comprising: a flexible bag body having a bottom and sidewalls, at least two elongate tubular pallet members of polymer plastic (page 2 lines 35+) having axially extending openings adapted to receive fork tines from a fork lift, each of the at least two tubular

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elongate pallet members has a first end, a second end, means for securing each of the at least two elongate pallet members to the bottom of the bag body in the form of one of straps, laces or sleeves extending from the bag body. (See page 2 lines 45+, where Hourston discloses two or more straps to secure each pallet).

Although Hourston does not explicitly disclose the strap arrangement in his drawings, it is clear from the remainder of his disclosure that the straps would be attached to the bottom of the bag and would be transversely disposed with respect to the pallets, just as he has done with his loops. Longitudinal strap arrangements are unlikely in Hourston, as such an arrangement: would be contrary to the remainder of his disclosure; typically requires special pallet construction to prohibit fork tine contact with the strap to avoid abrasion (see for instance extrinsic evidence Michaels et al. US D492,825), and as Hourston has discloses *two or more straps* for each pallet. Again, Michaels shows that longitudinal arrangements typically would accommodate a single strap per pallet.

With specific respect to claim 27, Hourston further discloses weight reducing voids in Figs. 3 and 4.

Hourston, however, does not disclose wear pads.

Rosenfeldt discloses removable wear pads 42.

It would have been obvious at the time of the invention to one of ordinary skill in the art to include wear pads on the pallet members of Hourston so that when straps are used to secure the pallets would be protected from abrasion as taught by Rosenfeldt.

Additionally, were wear pads included with the strapped pallet arrangement of Hourston, it would further be obvious to one of ordinary skill in the art to position the straps such that the at least (two) underlying wear pads would be exposed, and positioned transversely between the at least two underlying wear pads in a position underlying the at least two elongate tubular pallet members such that the straps laces or sleeves are protected from wear by the at least two underlying wear pads which provide an underlying wear surface.

The Examiner submits that this arrangement is not explicitly disclosed or taught in the references of Hourston or Rosenfeldt. However, if wear pads, as taught by Rosenfeldt, were used on the pallets of Hourston that are secured with straps, one of ordinary skill in the art would necessarily need to put the straps either directly underneath the wear pads or underneath the pallet portions not covered by a wear pad, as those are the only two options. Common sense would instruct one of ordinary skill in the art to *not* put the straps under the wear pads (as the wear pads are the intended wear surface), but to instead put the straps under the pallet where no wear pad is exposed. Sanford US 2,159,622 is one of many references which could be relied up for extrinsic evidence showing that strap abrasion is a concern and that protection of the strap from abrasion should be provided. Surely, one would not “protect” a wear pad with an easily abraded strap.

Re claims 5 and 28, Rosenfeldt discloses three wear pads per side.

Re claims 6 and 29, the wear pads of Rosenfeldt are replaceable.

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Re claim 30, note 2144.04 that making elements integral is typically not patentably significant. In this instance, it would have been obvious to one of ordinary skill in the art to make the wear pads integral with the molded pallets to save manufacturing steps.

2. Claims 7,31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hourston GB 2161452 in view of Rosenfeldt US 6,299,011, and further in view of Saito EP 0115551 and Morgan et al. US 5,440,998.

Hourston GB 2161452 in view of Rosenfeldt US 6,299,011 does not disclose a textured top gripping surface.

Saito discloses such a surface 35, but does not disclose ribs.

Morgan discloses a gripping surface comprising transverse ribs.

It would have been obvious to one of ordinary skill in the art to modify the pallet of Hourston in view of Rosenfeldt with the teaching of a gripping surface as taught by Morgan, so as to minimize slippage of a bag body on the pallets.

Re claim 31, Hourston discloses weight reducing voids in Figs. 3 and 4, but does not disclose perforations.

Saito discloses perforations for weight reduction.

Accordingly, it would have been obvious to one of ordinary skill in the art to modify the pallet of Hourston in view of Rosenfeldt with the teaching of weight reducing perforations as taught by Saito, so as to minimize the weight of the pallets, and thus minimize shipping costs.

3. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hourston GB 2161452 in view of Rosenfeldt US 6,299,011, and further in view of Barrow et al. US 5,507,237.

Hourston in view of Rosenfeldt does not disclose flutes.

Barrow discloses flutes, thereby providing a guide for the entry of fork tines from a fork lift.

Accordingly, it would have been obvious to one of ordinary skill in the art to modify the pallet of Hourston in view of Rosenfeldt with the teaching of flutes as taught by Barrow to simply the insertion of fork lift tines.

4. Claim 24 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hourston GB 2161452 in view of Rosenfeldt US 6,299,011, and further in view of Beal US 3,946,883.

Hourston in view of Rosenfeldt, as set forth previously, disclose the claimed elements (including the pallets in parallel spaced relation adjacent to two of the sidewalls of the bag body) but does not disclose wings.

Beal discloses laterally inwardly extending wings 13 and 14, as well as 13' and 14' for the proper load support of bags (col. 2, line 55).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pallets of Houston in view of Rosenfeldt with the

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teaching of inwardly extending wings so as to properly support the bag and limit bottom sagging.

5. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hourston GB 2161452 in view of Rosenfeldt US 6,299,011, and further in view of and further in view of Ross et al., US Patent 6,332,098, and Ishikawa et al., US Patent Application Publication 2002/0008048.

Hourston in view of Rosenfeldt does not disclose an electronic identification carrier on at least one of the pallet members.

Ross discloses an electronic identification carrier adapted to identify a package and distinguish from packages upon electronic interrogation. The electronic identification carrier is a microchip capable of encoding data regarding least one of the contents, weight, or shipping destination of the bulk bag.

Ishikawa teaches the use of identification on the pallet directly.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the bulk bag of Hourston in view of Rosenfeldt with the teachings of Ross and Ishikawa, so as to provide a system through which a bulk bag with integral pallets could be tracked and identified at any location through the use of a identification carrier comprising a microchip mounted on the pallet.

Allowable Subject Matter

Provided that corrections are made in response to the objections of Claim 1, this claim, and those claims that depend from it (7-14 and 17-20), are allowable as there is no teaching or suggestion in the prior art to provide apertures extending transversely through the wear pads with straps received in the apertures.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDJ



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